S.B. CIVIL WRIT PETITION NO.2211/2007.

John Distilleries Ltd.
Vs.
Raj.State Beverage Corporation and anr.

Date of order : 30/5/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Alok Sharma for the petitioner.
Shri R.B. Mathur for the respondents.

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The petitioner who is company manufacturing IMFL has come up with the grievance that though the Excise Commissioner has approved the labels under which supply is to be made by them to the Rajasthan State Beverage Corporation Litd. But it has arbitrarily withheld the orders for supply of the liquor under the label of “original choice“ on the pretext that M/s.BDA Ltd. had filed a suit in Delhi High Court for permanent injunction for the alleged infringement of their copyright wayback in June, 2002 which is still pending.

Learned counsel for the petitioner argued that mere filing of the injunction suit and pendency

of the same, cannot be a ground for crystilization of rights in favour of M/s.BDA Ltd. particularly when no injunction order as yet has been against the petitioner in that suit.

Learned counsel for the respondents however submits that no decision has been taken not to issue the orders for supply of liquor under the label of original choice and the representation of M/s.BDA Ltd. is still pending. Dispute between the petitioner and M/s.BDA Ltd., is admittedly pending adjudication before the Delhi High Court in which M/s.BDA Ltd. is claiming infringement of their copyright on the ground that the brand name and label of the “original choice“ is resemble with “Officers Choice“ which is their brand.

It is difficult to appreciate that so long as no specific injunction is passed upon adjudication of the dispute, how possibly, pendency of an injunction suit can be accepted as impediment in issuing the order for supply and moreso when no injunction order has been passed bythe court for last five years. Learned counsel for the respondents

however submits that they will shortly take a decision after providing an opportunity to both, the petitioner and M/s.BDA Ltd.

In the facts of the case, the respondents may, take a final view in the matter within a fortnight requiring the aforesaid representing party to either produce an injunction order or if not, accede to the prayer of the petitioner.

The writ petition is accordingly disposed of though with no order as to costs.

(MOHAMMAD RAFIQ), J.

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